

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1. BRANDIE SALAZAR-FOX,	§	
	§	
Plaintiff,	§	
	§	
V.	§	CIVIL ACTION NO. <u>CIV-19-794-PRW</u>
	§	
1. COX COMMUNICATIONS and	§	
2. COXCOM, LLC	§	
	§	
Defendants.	§	

DEFENDANTS' NOTICE OF REMOVAL

TO: Clerk of Court
United States District Court
For the Western District of Oklahoma
200 N.W. 4th Street
Oklahoma City, OK 73102

Clerk of the District Court of Oklahoma County
320 Robert S. Kerr, Room 409
Oklahoma City, OK 73102

Mark E. Hammons
Amber L. Hurst
Kristin E. Richards
HAMMONS, GOWENS, HURST & ASSOCIATES
325 Dean A. McGee Avenue
Oklahoma City, Oklahoma 73102

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendants, Cox Communications and CoxCom LLC d/b/a Cox Communications Oklahoma (collectively "Defendants"), hereby remove this action from the District Court of Oklahoma County, Oklahoma, where it was filed as Cause No. CJ-2019-413, styled *Brandie Salazar-Fox v. Cox Communications et al.*, to the United States District Court for the Western District of

Oklahoma. An index of the documents being filed with this Notice is attached hereto as Exhibit 1.

As the grounds for removal, Defendants state as follows:

1. On July 24, 2019, Plaintiff, Brandie Salazar-Fox (“Plaintiff” or “Salazar-Fox”), filed an original petition in the District Court of Oklahoma County, State of Oklahoma, which is located within the Western District of Oklahoma. A copy of Plaintiff’s Petition is attached hereto as Exhibit “2.”

2. Salazar-Fox served her Petition and a summons on Defendants’ registered agent, Corporate Service Company, by certified mail on July 29, 2019. A true and accurate copy of process is attached as Exhibit “3.” These attached documents constitute all “process, pleadings, and orders” served upon Defendants in the state court action. 28 U.S.C. § 1446(a). Defendants have not yet filed an answer or other responsive pleading to Plaintiff’s Petition.

3. Removal of this civil action is proper based on federal question jurisdiction under 28 U.S.C. § 1331 and § 1441(a), which provides that “any civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants.” Federal question jurisdiction exists because Plaintiff’s claims pursuant to the Americans with Disabilities Act (“ADA”) arise under federal law. *See* Petition, ¶¶ 3, 6, 26, and 27; *see also Rivet v. Regions Bank*, 522 U.S. 470, 475 (1998) (federal jurisdiction exists when a federal question is presented on the face of plaintiff’s complaint); *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392, 107 S.

Ct. 2425, 96 L. Ed. 2d 318 (1987) (defendant may remove a state court action to federal court if such an action could have been filed in the federal court originally).

4. Removal of the entire case is appropriate because this court has original jurisdiction over Plaintiff's ADA claim and may exercise supplemental jurisdiction over Plaintiff's remaining state law claim pursuant to 28 U.S.C. § 1367(a). *See also* 28 U.S.C. § 1441(c) (explaining that when non-removable claims are joined with removable claims, "the entire case may be removed and the district court may determine all issues therein").

5. Venue is proper in the Western District of Oklahoma, under 28 U.S.C. § 1441(a) because, under 28 U.S.C. § 116(c), this District embraces Oklahoma County, Oklahoma, where Salazar-Fox filed the State-Court Action. Therefore, this civil action is properly removed to this District and Division.

6. Promptly upon the filing of this Notice of Removal, Defendants will file a Notice of Filing Notice of Removal, with a copy of the Notice of Removal with the Circuit Court of Oklahoma County, Oklahoma, and will serve a copy thereof on Plaintiff through her counsel, in accordance with 28 U.S.C. § 1446(d).

7. This Notice of Removal is timely because it is filed within thirty (30) days from the date Defendants received a copy of the Petition. *See* 28 U.S.C. § 1446(b).

8. In accordance with LCvR 81.2, Fed. R. Civ. P. 81, and 28 U.S.C. § 1446(a), copies of all process and pleadings previously served upon Defendants, including a copy of the state court docket sheet, are attached hereto as Exhibits 1 through 4. A copy of the Federal Civil Cover Sheet is attached hereto as Exhibit 5.

9. Pursuant to 28 U.S.C. § 1446(a), Defendants attach the following documents, which comprise all process, pleadings, and orders served on Defendants in this action, to this Notice of Removal:

- Index of Documents Being Filed (Exhibit 1)
- Plaintiff's Original Petition (Exhibit 2)
- All Executed Process (Exhibit 3)
- State Court Docket Sheet (Exhibit 4)
- Federal Civil Cover Sheet (Exhibit 5)

10. Should Salazar-Fox seek to remand this case to state court, Defendants respectfully request permission to brief and argue the issue of this removal prior to any order remanding this case. In the event the Court decides remand is proper, Defendants ask that the Court retain jurisdiction and, if the Court deems it appropriate, certify any remand order for interlocutory review by the Court of Appeals, pursuant to 28 U.S.C. § 1292(b).

11. There are no motions pending before the Oklahoma County District Court in this matter, nor are any hearings currently set.

WHEREFORE, Defendants respectfully remove this action to this Court pursuant to 28 U.S.C. §§ 1331, 1441 and 1446. Defendants also request all other relief, at law or in equity, to which they are justly entitled.

DATED: August 28, 2019

Respectfully submitted,

By: /s/ Kristin M. Simpsen

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2019, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing and deposited a copy in the U.S. mail, postage prepaid, to the following registrants:

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s/ Kristin M. Simpsen

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